

[SUBMITTING COUNSEL ON SIGNATURE
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE KOREAN RAMEN INDIRECT
ANTITRUST LITIGATION

CASE NO. 3:13-cv-04115-WHO

**STIPULATION AND ORDER
REGARDING FILING AND SERVICE OF
THE INDIRECT PURCHASER
PLAINTIFFS' CONSOLIDATED
AMENDED COMPLAINT AND SETTING
A SCHEDULE FOR DEFENDANTS TO
ANSWER OR OTHERWISE RESPOND
THERE TO AND REQUESTING
MODIFICATION OF THE INITIAL CASE
MANAGEMENT CONFERENCE**

1 Plaintiffs in this Consolidated Action (“the Indirect Purchaser Plaintiffs”) and Defendants
 2 Ottogi America, Inc. (“Ottogi America”), Nongshim America, Inc. (“NS America”), Sam Yang
 3 U.S.A., Inc. (“SY USA”), and Paldo Company, Ltd. (“Paldo,” and collectively with Ottogi America,
 4 NS America, and SY USA, “Domestic Defendants”) (collectively, the “Parties”), so as to conserve
 5 both party and judicial resources, by and through their respective counsel of record, hereby submit
 6 this Stipulation and [Proposed] Order Setting Schedule for Indirect Purchaser Plaintiffs to File
 7 Consolidated Amended Complaint and Defendants to Answer or Otherwise Respond Thereto and
 8 Requesting Continuance of the Initial Case Management Conference.
 9

10 WHEREAS, the Indirect Purchaser Plaintiffs have filed six complaints on behalf of indirect
 11 purchasers of Korean Ramen Noodle Products based on same or similar allegations and naming all of
 12 the same defendants in the following actions: *An et al. v. Nong Shim Co., Ltd. et al.*, Case No. 13-
 13 5728-WHO (“An Action”); *Fenerjian v. Nong Shim Co., Ltd. et al.*, Case No. 13-4115-WHO
 14 (“Fenerjian Action”); *Bonnington v. Nong Shim Co., Ltd. et al.*, Case No. 13-4296-WHO
 15 (“Bonnington Action”); *Christina Nguyen v. Nong Shim Co., Ltd. et al.*, Case No. 13-4308-WHO
 16 (“C. Nguyen Action”); *Thu-Thuy Nguyen v. Nong Shim Co., Ltd. et al.*, Case No. 13-4335-WHO (“T.
 17 Nguyen Action”); and *Pelobello v. Nong Shim Co., Ltd. et al.*, Case No. 13-4898-WHO (“Pelobello
 18 Action”) (collectively “the Indirect Purchaser Actions”);

19 WHEREAS, the Court, by Order dated December 16, 2013, consolidated the Indirect
 20 Purchaser Actions under the title *In re Korean Ramen Indirect Antitrust Litigation* (the “Consolidated
 21 Indirect Purchaser Action”);

22 WHEREAS, the Direct Purchaser Plaintiffs have filed seven complaints on behalf of direct
 23 purchasers of Korean Ramen Noodle Products based on same or similar allegations and naming all of
 24 the same defendants in the following actions: *The Plaza Company v. Nong Shim Co., Ltd. et al.*, Case
 25 No. 13-5729-WHO (“Plaza Action”); *PITCO Foods v. Nong Shim Co., Ltd. et al.*, Case No. 13-4148-
 26 WHO (“PITCO Action”); *Rockman Company (USA), Inc. v. Nong Shim Co., Ltd. et al.*, Case No. 13-
 27 4523-WHO (“Rockman Action”); *M.T. Trading Corp. v. Nong Shim Co., Ltd. et al.*, Case No. 13-
 28 5078-WHO (“M.T. Trading Action”); *Summit Import Corp. v. Nong Shim Co., Ltd. et al.*, Case No.

1 13-5564-WHO (“Summit Action”); *El Jarocho, Inc. v. Nong Shim Co., Ltd. et al.*, Case No. 13-5600-
2 WHO (“El Jarocho Action”); and *Diaz Wholesale & Manufacturing Co., Inc. d/b/a Diaz Foods v.*
3 *Nong Shim Co., Ltd. et al.*, Case No. 14-cv-00127-SBA (“Diaz Action”) (collectively, “the Direct
4 Purchaser Actions”);

5 WHEREAS, all of the Indirect Purchaser Actions and the Direct Purchaser Actions have been
6 designated as related and are currently pending before the Honorable Judge William H. Orrick,
7 except for the *Diaz* Action, which was filed on January 9, 2014 and is currently pending before the
8 Honorable Sandra B. Armstrong;

9 WHEREAS, in the December 16, 2013 Order, the Court ordered the Indirect Purchasers to
10 file their Consolidated Amended Complaint by February 3, 2014, and set an Initial Case Management
11 Conference for the Consolidated Indirect Purchaser Action for January 21, 2014 (“December 16,
12 2013 Order”);

13 WHEREAS, the December 16, 2013 Order provides that the Indirect Purchaser Consolidated
14 Amended Complaint will be the operative complaint in the Consolidated Indirect Purchaser Action
15 and that all individual Indirect Purchaser complaints are superseded, thereby relieving the Defendants
16 of any obligations to respond thereto;

17 WHEREAS, the Direct Purchaser Plaintiffs in the six related Direct Purchaser Actions before
18 Judge Orrick have indicated that they will seek by separate stipulation with the Domestic Defendants:
19 (1) the consolidation of their actions into a Consolidated Direct Purchaser Action before Judge
20 Orrick; (2) leave to file a Consolidated Amended Complaint in the Direct Purchaser Actions; (3) a
21 briefing and hearing schedule for the appointment of interim leadership class counsel for the Direct
22 Purchaser Plaintiffs; and (4) the setting of a single Initial Case Management Conference for both the
23 Direct Purchaser Actions and the Consolidated Indirect Purchaser Action within 30 days following
24 the entry of an order concerning leadership of the Direct Purchaser Actions;

25 WHEREAS, the Domestic Defendants and the Indirect Purchaser Plaintiffs believe that legal
26 and factual issues in the Direct and Indirect Purchaser Actions overlap to a substantial extent and that
27 the interests of justice and judicial efficiency would be best served by coordinating certain pretrial
28 proceedings, by (1) implementing a uniform date for the filing of the Consolidated Amended

1 Complaints in both the Direct Purchaser Actions and the Consolidated Indirect Purchaser Action, and
2 (2) convening a joint initial Case Management Conference in the Consolidated Indirect Purchaser
3 Action and the Direct Purchaser Actions;

4 WHEREAS, the Domestic Defendants and the Indirect Purchaser Plaintiffs believe that the
5 interests of justice and judicial efficiency would be best served by postponing the February 3, 2014
6 due date of the Indirect Purchaser Consolidated Amended Complaint, and by vacating the initial Case
7 Management Conference in the Consolidated Indirect Purchaser Action set for January 21, 2014, so
8 as to allow an initial Case Management Conference to be convened in the Consolidated Indirect
9 Purchaser Action and the Direct Purchaser Actions at the same time within 30 days following the
10 entry of an order concerning leadership of the Direct Purchaser Plaintiffs in the Direct Purchaser
11 Actions;

12 WHEREAS, the Indirect Purchaser Plaintiffs propose that both the Indirect Purchaser
13 Plaintiffs and the Direct Purchaser Plaintiffs file their Consolidated Amended Complaint within 30
14 days following the entry of an order concerning leadership of the Direct Purchaser Plaintiffs in the
15 Direct Purchaser Actions;

16 WHEREAS, Korea-based Defendants Nongshim Co., Ltd. ("NS Korea"), Ottogi Company,
17 Ltd. ("Ottogi Korea") and Sam Yang Foods Company, Ltd. ("SY Korea"), have yet to be served in
18 the Consolidated Indirect Purchaser Action, and Defendant Korea Yakult Company, Ltd. ("Yakult")
19 contends that it has yet to be served. (NS Korea, Ottogi Korea, SY Korea and Yakult are hereinafter
20 referred to as the "Korean Defendants"). The Indirect Purchaser Plaintiffs have begun the process of
21 serving the Korean Defendants pursuant to the procedures of the Hague Convention but have not
22 completed the process, and no deadline for the Korean Defendants to file their responsive pleadings
23 has been set or modified;

24 WHEREAS, counsel for the Korean Defendants have agreed that, pursuant to the letter
25 agreements attached hereto as Exhibits A, B, C and D and in consideration for other terms of this
26 Stipulation, (1) they will accept service of the Indirect Purchaser Plaintiffs' Consolidated Amended
27 Complaint on behalf of the Korean Defendants who are their respective clients, in satisfaction of the
28 requirements of Fed. R. Civ. P. 4, (2) that service of the Indirect Purchaser Plaintiffs' Consolidated

1 Amended Complaint on the Korean Defendants shall be effective as of the date of the filing of the
2 Indirect Purchaser Plaintiffs' Consolidated Amended Complaint; and (3) the Korean Defendants shall
3 not contest the sufficiency of process or service of process; provided, however, that their acceptance
4 of such service shall not constitute a waiver of any other defense, including, but not limited to the
5 defense of lack of personal jurisdiction or subject matter jurisdiction or service of an improper entity;

6 WHEREAS, Plaintiffs in the Consolidated Indirect Purchaser Action agree that the deadline
7 for the Domestic Defendants and Korean Defendants to respond to the Indirect Purchaser
8 Consolidated Amended Complaint shall be extended to 75 days after the filing of the Indirect
9 Purchaser Consolidated Amended Complaint;

10 WHEREAS, no extension of time has previously been granted for the filing of the Indirect
11 Purchaser Consolidated Amended Complaint in the Consolidated Action;

12 WHEREAS, no request to postpone the Initial Case Management Conference has previously
13 been submitted in the Consolidated Indirect Purchaser Action;

14 NOW, THEREFORE, THE PARTIES, BY AND THROUGH THEIR RESPECTIVE
15 UNDERSIGNED COUNSEL, HEREBY STIPULATE, AND THE COURT ORDERS AS
16 FOLLOWS:

17 1. The February 3, 2014 deadline previously set by the Court for the filing of an Indirect
18 Purchaser Consolidated Amended Complaint in the Consolidated Indirect Purchaser Action is hereby
19 vacated. The Indirect Purchaser Consolidated Amended Complaint shall be filed within 30 days
20 following the entry of an order concerning leadership of the Direct Purchaser Plaintiffs in the Direct
21 Purchaser Actions.

22 2. The deadline for the Domestic Defendants and Korean Defendants to respond to the
23 Indirect Purchaser Consolidated Amended Complaint shall be 75 days after the Indirect Purchaser
24 Consolidated Amended Complaint in the Consolidated Indirect Purchaser Action is filed.

25 3. The Initial Case Management Conference currently scheduled for January 21, 2014 in
26 the Consolidated Indirect Purchaser Action shall be vacated, and a single Case Management
27 Conference for the Direct Purchaser Actions and the Consolidated Indirect Purchaser Action shall
28

1 take place within 30 days following the entry of an order concerning leadership of the Direct
2 Purchaser Plaintiffs in the Direct Purchaser Actions.

3 4. Service of the Indirect Purchaser Plaintiffs' Consolidated Amended Complaint on the
4 Korean Defendants shall be effective as of the date of the filing of the Indirect Purchaser Plaintiffs'
5 Consolidated Amended Complaint. The Korean Defendants' acceptance of such service shall not
6 constitute a waiver of any other defense, including, but not limited to the defense of lack of personal
7 jurisdiction or subject matter jurisdiction or service of an improper entity.

8 DATED: January 13, 2014

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18 DATED: January 13, 2014

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26 DATED: January 13, 2014

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1 DATED: January 13, 2014

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10 DATED: January 13, 2014

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18 DATED: January 13, 2014

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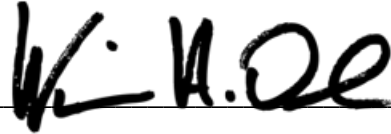
26 *Liaison Counsel for the Indirect Purchaser Plaintiffs*

27 PURSUANT TO STIPULATION, IT IS SO ORDERED.

28 The Court notes that the dates in the Stipulation are triggered by entry of an order concerning leadership of the Direct Purchaser Plaintiffs in the Direct Purchaser Actions. As the parties are aware, the Direct Purchaser Plaintiffs have yet to file the stipulation discussed in the fourth

1 “whereas” clause on page 2, above (“the Direct Purchaser Plaintiffs’ stipulation”). The Court
2 enters this Stipulation as its Order with the expectation that the Direct Purchaser Plaintiffs’
3 stipulation will be filed within the next thirty days.
4

5 DATED: January 14, 2014

A handwritten signature in black ink, appearing to read "W. H. Orrick", written over a horizontal line.

6 HONORABLE WILLIAM H. ORRICK
7 UNITED STATES DISTRICT JUDGE
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